



Reprinted  
February 11, 2003

---

## HOUSE BILL No. 1260

---

DIGEST OF HB 1260 (Updated February 10, 2003 4:46 PM - DI 105)

**Citations Affected:** IC 35-38.

**Synopsis:** Withholding judgment of conviction. Allows a court to withhold judgment of conviction for a Class D felony under certain circumstances. Provides that a court may order supervision of an offender placed on home detention who resides in a contiguous county by the probation department or community corrections program located in the county of the sentencing court. Provides that a probation department or community corrections program that supervises an offender in a contiguous county is solely responsible for costs of supervision.

**Effective:** July 1, 2003.

---

---

**Avery, Weinzapfel, Young D,  
Thompson**

---

---

January 13, 2003, read first time and referred to Committee on Courts and Criminal Code.  
February 6, 2003, amended, reported — Do Pass.  
February 10, 2003, read second time, amended, ordered engrossed.

---

---

HB 1260—LS 7404/DI 105+



C  
o  
p  
y

Reprinted  
February 11, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1260

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 35-38-1-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) **Except as**  
3 **provided in section 1.5 of this chapter**, after a verdict, finding, or plea  
4 of guilty, if a new trial is not granted, the court shall enter a judgment  
5 of conviction.  
6 (b) When the court pronounces the sentence, the court shall advise  
7 the person that the person is sentenced for not less than the earliest  
8 release date and for not more than the maximum possible release date.  
9 SECTION 2. IC 35-38-1-1.5 IS ADDED TO THE INDIANA CODE  
10 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
11 1, 2003]: Sec. 1.5. (a) **A court may withhold judgment of conviction**  
12 **for not more than three (3) years for a Class D felony that qualifies**  
13 **for consideration as a Class A misdemeanor under IC 35-50-2-7.**  
14 (b) **Notwithstanding any other law, a person for whom**  
15 **judgment is withheld under this section shall be sentenced as**  
16 **provided in this chapter and, in all other respects, as if judgment**  
17 **of conviction were entered by the court.**

HB 1260—LS 7404/DI 105+



C  
o  
p  
y

1        **(c) This section may not be construed to diminish or alter the**  
 2        **rights of a victim (as defined in IC 35-40-4-8) in a sentencing**  
 3        **proceeding under this chapter.**

4        SECTION 3. IC 35-38-2.5-5.5, AS ADDED BY P.L.137-2001,  
 5        SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6        JULY 1, 2003]: Sec. 5.5. (a) A court may not place an offender who  
 7        resides in a different county on home detention unless:

8            (1) the offender is eligible for home detention in the county in  
 9            which the person resides; and

10          (2) supervision of the offender will be conducted by the probation  
 11          department or community corrections program located in the  
 12          county in which the offender resides.

13        **However, if the offender resides in a county that is contiguous to**  
 14        **the sentencing court, the sentencing court may place the offender**  
 15        **on home detention under the supervision of the probation**  
 16        **department or community corrections program located in the**  
 17        **county of the sentencing court.**

18        (b) If an offender is:

19            (1) currently serving home detention in a county that operates a  
 20            home detention program; and

21            (2) being supervised by a probation department or community  
 22            corrections program located in a different county;

23        the court shall order that supervision of the offender be transferred to  
 24        the probation department or community corrections program located in  
 25        the county where the offender resides. **However, if the offender is**  
 26        **currently serving home detention in a county that is contiguous to**  
 27        **the sentencing court, the sentencing court may place the offender**  
 28        **on home detention under the supervision of the probation**  
 29        **department or community corrections program located in the**  
 30        **county of the sentencing court.**

31        (c) All home detention fees described in section 8 of this chapter  
 32        shall be collected by the probation department or community  
 33        corrections program that supervises the offender.

34        **(d) If a court under this section orders supervision of an**  
 35        **offender who resides in a county that is contiguous to the county of**  
 36        **the sentencing court by the probation department or community**  
 37        **corrections program in the county of the sentencing court, the**  
 38        **supervising probation department or community corrections**  
 39        **program is solely responsible for the expenses of supervision.**

C  
o  
p  
y



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1260, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, after line 3, begin a new paragraph and insert:

"SECTION 3. IC 35-38-2.5-5.5, AS ADDED BY P.L.137-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.5. (a) A court may not place an offender who resides in a different county on home detention unless:

- (1) the offender is eligible for home detention in the county in which the person resides; and
- (2) supervision of the offender will be conducted by the probation department or community corrections program located in the county in which the offender resides.

**However, if the offender resides in a county that is contiguous to the sentencing court, the sentencing court may place the offender on home detention under the supervision of the probation department or community corrections program located in the county of the sentencing court.**

(b) If an offender is:

- (1) currently serving home detention in a county that operates a home detention program; and
- (2) being supervised by a probation department or community corrections program located in a different county;

the court shall order that supervision of the offender be transferred to the probation department or community corrections program located in the county where the offender resides. **However, if the offender is currently serving home detention in a county that is contiguous to the sentencing court, the sentencing court may place the offender on home detention under the supervision of the probation department or community corrections program located in the county of the sentencing court.**

(c) All home detention fees described in section 8 of this chapter shall be collected by the probation department or community corrections program that supervises the offender."

and when so amended that said bill do pass.

(Reference is to HB 1260 as introduced.)

WEINZAPFEL, Chair

Committee Vote: yeas 13, nays 0.

HB 1260—LS 7404/DI 105+



C  
O  
P  
Y

## HOUSE MOTION

Mr. Speaker: I move that House Bill 1260 be amended to read as follows:

Page 2, after line 33, begin a new paragraph and insert:

**"(d) If a court under this section orders supervision of an offender who resides in a county that is contiguous to the county of the sentencing court by the probation department or community corrections program in the county of the sentencing court, the supervising probation department or community corrections program is solely responsible for the expenses of supervision."**

(Reference is to HB 1260 as printed February 7, 2003.)

THOMPSON

C  
o  
p  
y

